IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 28890 of 2005(L)

PETITIONER:

K.SREEKALA,
W/O.C.BHUVANACHANDRAN,
RESIDING AT POLICE QUARTERS,
PALLIKUNNU, KANNUR.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.SREEKANTH.K.R
SRI.JIBU P THOMAS

RESPONDENTS:
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1. **THE DIRECTOR,**
   THE DEPARTMENT OF MINING AND GEOLOGY,
   THIRUVANANTHAPURAM.

2. **THE GEOLOGIST,**
   DISTRICT OFFICE,
   DEPARTMENT OF MINING AND GEOLOGY,
   THIRUVANANTHAPURAM-695 004.

3. **THE DISTRICT COLLECTOR,**
   KANNUR.

BY GOVERNMENT PLEADER SMT. SMITHA SUKUMARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.28890/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REQUISITION FOR RECOVERY OF THE AMOUNT BY REVENUE RECOVERY ISSUED BY THE 2ND RESPONDENT DT.28.2.2005.

EXT.P2:- COPY OF THE APPLICATION PUT IN BY THE PETITIONER DT. NIL.

ANNEXURE R2(a):- COPY OF THE DEMAND NOTICE SENT THE PETITIONER DT. 26.4.01.

ANNEXURE R2(b):- COPY OF THE DEMAND NOTICE DT.8.11.02.

ANNEXURE R2(c):- COPY OF THE POSTAL ENVELOPE.

/TRUE COPY/

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 28890 OF 2005-L

JUDGMENT

The petitioner has approached this Court, challenging Ext.P1 requisition issued by the Senior Geologist to the revenue recovery authorities, to recover an amount of Rs.4,46,717/- from her towards dead rent for the period from 19.7.1994 to 18.7.1998 and penal interest as on 31.3.2004. The petitioner has taken some Government land on licence basis for quarrying. Since it was not profitable, she abandoned the quarry and left the place. Long thereafter, as evident from Ext.P1, steps were taken to recover the dead rent with interest from her. So, this Writ Petition was filed, challenging the said requisition and accompanying notice, alleging that no assessment order assessing dead rent has been served on her.

2. The respondents have filed a counter affidavit, in which it is submitted that they have sent Annexure-R2(a) and Annexure-R2(b) notices to the petitioner, showing the amount due from her. Though Annexure-R2 (b) was sent by registered post, the same was returned with the endorsement “left without informing the present address”. So, revenue recovery steps were taken, it is submitted.

3. The details as to how the amount due from the petitioner was arrived at, are given in para 7 of the counter affidavit filed by respondents 1 and 2. In view of the above position, the petitioner may work out her remedy against Annexures R2(a) and R2(b). She can invoke the statutory remedy also against them. The contention of the petitioner that without an assessment order such notices cannot be issued, can be canvassed in the proceedings where those notices are under challenge. The period this Writ Petition was pending before this Court, after service of the copy of the counter affidavit on the petitioner, shall be excluded while computing the period of limitation, if any, in invoking the statutory remedy against Annexures R2(a) and R2(b). Subject to that right, the Writ Petition is closed.

8th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/